



MAY 11 2006

Memorandum
by City Manager's Office**TO:** HONORABLE MAYOR AND
CITY COUNCIL**FROM:** Leslye Krutko
Scott P. Johnson**SUBJECT:** SEE BELOW**DATE:** May 3, 2006

Approved

Date

5/12/06

COUNCIL DISTRICT: Citywide**INFORMATION**

SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE DIRECTORS' DELEGATION OF AUTHORITY FOR THE PERIOD OF JANUARY 1, 2006 THROUGH MARCH 31, 2006

EXECUTIVE SUMMARY

This report details actions taken under the City Council's delegation of authority to the Directors of Housing and Finance for the third quarter of Fiscal Year 2005-06. Included in the actions taken were: Approval of an increase of the permanent loan up to \$346,000 for the Pollard Plaza Apartments project; more than \$1,595,585 in housing rehabilitation loans and grants; a write-off of one small mobilehome rehabilitation loan; approval of the conversion of an unsecured repair loan to a grant; approval of the conversion of a mobilehome loan to a grant; approval of a release of a 30-year affordability restriction to allow equity share payments to remove restrictions previously recorded; approval of initiation of foreclosure proceedings on a rehabilitation loan; approval of the conversion of a rental affordability restriction to an equity-share restriction; approval of an extension to the Casa Feliz Option Agreement; and, approval of the specific business terms of an additional \$311,000 subsidy to support project operations for the Lenzen Square teacher housing project.

BACKGROUND

On September 4, 1990, the City Council adopted Ordinance No. 23589, which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further

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amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Directors of Housing and Finance and to the City Manager. Subsequently, the City Manager delegated to the Director of Housing the Contract Authority granted to the City Manager.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of January 1, 2006 through March 31, 2006.

ANALYSIS

The Delegation of Authority Ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or to grant Housing and Homeless funds, Predevelopment funds, and Housing Rehabilitation Program funds; to negotiate and to execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management for, and/or dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; and to make other technical changes under the Director of Housing's Delegation of Authority. Ordinance No. 26657 further broadened the Director of Housing's authority to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; to delegate jointly to the Director of Housing and Director of Finance authority related to the City's issuance of tax-exempt, private-activity bonds to finance the development of affordable housing projects; to delegate to the Director of Finance the authority to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects and the authority to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council.

ACTIONS TAKEN BY THE DIRECTORS OF HOUSING AND FINANCE

Under the parameters of the Delegation of Authority, the Director of Housing has taken the following actions during the period of January 1, 2006 through March 31, 2006:

Modifications to Council-approved Loan Terms & Conditions:

Story Plaza Apartments, L.P. - District: 7 - SNI: N/A

On February 15, 2006, the Director of Housing approved an increase in the permanent loan amount of \$346,000, from \$13,405,471 to \$13,751,471, to Story Plaza Apartments, L.P. for the Pollard Plaza Apartments project. The increase was necessary to compensate for an anticipated decrease in GMAC's senior loan amount due to weak market rental conditions as well for

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additional project costs expected to be incurred due to the extension of the project's conversion timing due to slower than anticipated rent-up stabilization. In consideration for this increase in the permanent loan amount at conversion from construction to permanent period, the term of affordability on the property was extended by 5 years to a total of 60 years.

All other terms and conditions remained unchanged as approved by City Council on May 20, 2002 as amended on October 28, 2002 and on June 28, 2005.

Release of 30-year Affordability Restrictions:

On November 1, 1987, the City of San José ("City") prepared and recorded a grant deed in favor of Community Housing Developers for 174 and 178 Blossom Hill Road as part of a scattered-site project, including an affordability restriction expiring July 1, 2018. On June 1, 1989, the City made two loans for the purchase of 174 Blossom Hill Road to Medhi Zentani and Nancy Valencia (a married couple), who were being relocated from their home. Affordability deed restrictions run with the land on both loans, and neither loan contains an equity share buy-out provision.

Mr. Zentani and Ms. Valencia have made no payments on their loans since April 18, 2003. To avoid foreclosure, which would have begun on March 14, 2006, the borrower placed the home on the market and accepted a contract of sale; however, the potential buyers have indicated that they will cancel the transaction if the affordability restrictions are not removed. In light of the severity of the delinquency, the pending foreclosure and the many costs associated with a foreclosure, staff recommended the release of the affordability restrictions and collection of an equity share payment plus other sums due totaling \$217,838. On January 24, 2006, the Director of Housing approved the recommended action.

Mobilehome Rehabilitation Loan Write-off:

On December 10, 1996, the City received a copy of a three-day notice to terminate tenancy for past-due rents from Mr. Perry L. and Mrs. Gloria J. Dukes, the registered owners of the mobilehome located at 555 Umbarger Road, Space 125 in the San José Verde Mobilehome Park. The Dukes had abandoned their mobilehome still owing their first lender, Mr. Kirt Sanchagrin, the amount of \$23,000. Mr. Sanchagrin took possession of the mobilehome, eliminating the City from title as lien holder. The original borrowers' whereabouts are currently unknown and the City no longer has any legal claim to the former collateral, making this loan uncollectible. On March 7, 2006, the Director of Housing approved the write-off of the \$7,500 mobilehome repair loan to Mr. and Mrs. Dukes.

Conversion of an Unsecured Emergency Repair Loan to a Grant:

On March 15, 1993, the City of San José ("City") made a loan in the amount of \$650.00 to Edna Contreras for repairs to her home. On March 23, 1993, the loan amount was reduced from \$650 to \$580, the actual cost of repairs. A senior lender foreclosed on the property late in 1993; therefore, Ms. Contreras is no longer on title, rendering the cost of any attempt to collect on the

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loan very likely to exceed the outstanding balance. For this reason, on March 7, 2006, the Director of Housing approved the conversion of Ms. Contreras' unsecured repair loan to a grant, making repayment unnecessary.

Conversion of a Mobilehome Loan to a Grant:

On November 18, 1988, the City made a loan in the amount of \$3,077 to Mary E. Williams for replacement of her mobilehome's roof. Ms. Williams is now 90 years of age and in poor health, her unit is to be sold, and she will be moving into an assisted-living apartment. At this time, it is unknown what she will net from the sale of her mobilehome, as Ms. Williams must pay for some repairs to be made to the unit. The relatively small investment in this rehabilitation project has resulted in approximately 19 years of affordability.

After a review and consideration, the minimal monetary recovery that the City could receive and the fact that the dollar amount involved would be eligible for a grant under the Housing Rehabilitation Program guidelines currently in effect, the Director of Housing approved the conversion of the loan to a grant on March 6, 2006.

Initiation of Foreclosure Proceedings on a Rehabilitation Loan:

On September 7, 1993, the City made an amortizing loan in the amount of \$132,492, to David G. Gutierrez for the rehabilitation of an owner-occupied, three-unit rental property located at 590 South 5th Street. The loan, which is junior to an existing first mortgage loan and was increased on September 20, 1994 to \$146,992, has been delinquent since year 2000. Its current outstanding balance is \$93,756 plus various miscellaneous charges, such as accrued interest, equity share sum, and late charges. Because the borrower has been totally unresponsive to staff inquiries, staff recommended that the matter be submitted to Standard Trust Deed Service Company to act as the City's agent in foreclosure proceedings. On March 20, 2006, the Director of Housing approved the initiation of foreclosure proceedings.

Conversion of a Rental Affordability Restriction to an Equity-Share Restriction:

In 1995, the Housing Department made a rehabilitation loan to Ms. Mary Fanelli for improvements to her rental property located at 439 East Empire Street. Because the amount of the loan exceeded 25% of the median-priced single family home in San José at that time, a 30-year affordability restriction, appropriate for a rental property funded by 20% funds, was placed on the property. In 2001, title to the property was transferred to David Nannini, Ms. Fanelli's grandson, who became owner-occupant of the property and who applied for additional rehabilitation assistance. In making the second loan, which was funded with 20% funds, it was recommended that the City attorney draft a replacement owner-occupied affordability restriction with an equity-share buy-out provision and with an expiration date of February 22, 2025 (the expiration of the 30-year term in the current restriction). On March 14, 2006, the Director of Housing approved the replacement of the existing restriction to an ownership restriction containing an equity-share buy-out provision. All other terms remained unchanged as approved by City Council.

Casa Feliz – Council District: 3 – SNI: University:

Casa Feliz is a vacant 64-unit multifamily property that formerly housed low-income mentally ill residents and is located at 525 South Ninth Street. In 1997, the City of San José (“City”) became creditor-in-possession and, in 2004, owner of the property when its previous owner, Housing for Independent People (“HIP”), abandoned the property through a bankruptcy court order. The property has been, and continues to be, managed through the John Stewart Company (“JSC”). The City agreed that the property needed to be rehabilitated and JSC asked First Community Housing (“FCH”) to be its partner in redeveloping the property to create 59 units restricted to households earning no more than 30% of Area Media Income (“AMI”), a portion of which will be set aside for developmentally disabled persons.

On February 15, 2006, the City Council approved a City acquisition loan commitment of \$1,620,642 as well as an Option to Purchase the property between the City of San José, First Community Housing and the John Stewart Company (“Option Agreement”). The Option Agreement expired on February 15, 2006. On February 15, 2006, the Director of Housing approved an extension of the Option Agreement from February 15, 2006 to August 15, 2006. All other terms remain unchanged as approved by City Council on February 15, 2005.

Loans/Grants Terms and Conditions:Lenzen Square Housing Project – District: 6 - SNI: N/A

On February 10, 2006, the Director of Housing approved the specific business terms for an additional subsidy to support project operations to Lenzen Housing, L.P., as evidenced by a letter to the developer dated February 1, 2006. The maximum amount of additional subsidy to be provided by the City over a 37-month period beginning in February 2006 shall not exceed \$311,000 and shall be used exclusively for the payment of principal and interest on the primary permanent-period HUD financing during leasing and stabilization of the project. As consideration for this additional subsidy, the City will require five (5) units currently restricted at 60% Area Median Income (AMI) to be restricted to households earning 50% AMI, and will extend the existing 55-year Affordability Restrictions an additional five years, expiring in 2061. All other terms and conditions remained unchanged as approved by the City Council on June 26, 2001.

Lenzen Square Housing Additional Subsidy

Up to Amount:	\$311,000
Interest Rate:	1% simple from years 1 through 15; 4.00% simple thereafter
Loan Term:	37 Months
Repayment:	From 70% of Residual Receipts
Change in Affordability Mix:	5 currently @ 60% AMI to be restricted @ 50% AMI
Affordability Term:	60 Years

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Housing Rehabilitation and Improvement Loans and Grants Approved

<u>ACTIVITY</u>	<u>NUMBER</u>	<u>AMOUNT</u>
REHABILITATION LOANS	9	\$217,500
REHABILITATION GRANTS	87	\$1,330,500
ESD GRANTS (stand-alone)	15	\$47,585
PAINT GRANTS	0	\$0
TOTAL:	111	\$1,595,585

Predevelopment Loans:

None this period.

TEFRA Hearings Conducted by the Director of Finance:

None this period.

COORDINATION:

Preparation of this report has been coordinated with the City Attorney's Office.


SCOTT P. JOHNSON
Director of Finance


LESLYE KRUTKO
Director of Housing